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KERALA GAZETTE

EXTRAORDINARY

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States Reorganisation Department

PROCEEDINGS

Dated, Trivandrum, 19th December 1956.

Subject:—REORGANISATION OF STATES—Division of Malabar into three Districts.

ORDER No. SRN. 3-29174/56.

Government are pleased to direct that the Malabar District will be divided into three Districts with certain changes in the limits of the existing Trichur and Malabar Districts and also the limits of some of the taluks. The changes will take effect from the 1st January 1957 as mentioned in Notification No.SRN. 3-29174/56, dated 19-12-1956. The Headquarters of the new Districts of Cannanore, Kozhikode and Palghat will respectively be Cannanore, Kozhikode and Palghat. A copy each of the notification is forwarded to the Board of Revenue, Collectors of Malabar and Trichur and to all Heads of Departments and Departments of the Secretariat for information and necessary action.

2. Government also direct that the inclusion of South Wynad taluk in the new District of Cannanore is a temporary arrangement and that this taluk will be added to the Kozhikode District and included in the Kozhikode Division soon after the next general elections.

3. Government are pleased to order that existing Courts, Government Offices and institutions in Tellicherry will continue in Tellicherry and are not proposed to be shifted to the Headquarters of Cannanore District at Cannanore.

4. The Board of Revenue is requested to make immediate arrangements for the formation of the new districts and taluks and for all incidental matters.

5. The Heads of Departments and Departments of the Secretariat are requested to examine what consequential changes are required in the administrative set-up of their Departments in Malabar and Trichur Districts and to formulate proposals in this behalf.

By order of the Governor,
(Sd.)
Assistant Secretary.

To

The Secretary, Board of Revenue.
The Collector of Malabar.
The Collector of Trichur.
The Heads of Departments.
The Registrar of High Court (with C. L.).
The Secretary, Public Service Commission (with C. L.).
The Secretaries to Government (including Secretary to the Governor).
The Private Secretary to the Adviser.
The Departments of the Secretariat.

States Reorganisation Department

NOTIFICATION

No. SRN.E3-29174/56. *Dated, Trivandrum, 19th December* 1956.

In exercise of the powers conferred by the Madras District Limits Act, 1865 (Act I of 1865), the Government of Kerala hereby direct that with effect from the 1st day of January 1957, the area comprising the Malabar District, shall be so altered as to exclude therefrom the Revenue Division of Fort Cochin and the villages specified in schedule B attached hereto. They also direct that the rest of the area comprising the Malabar District and the Chittur Taluk of Trichur District which from that date shall cease to form part of Trichur District, shall with effect from the said date be reconstituted into the revenue districts, divisions, taluks and firkas as given in schedule A attached hereunder. They further direct that the villages specified in schedule B shall constitute the taluk of Chowghat and form part of the Trichur Division of the District of Trichur.

SCHEDULE A

Name of District.	*Names of divisions comprised in the district.*	*Names of Taluks comprised in the division.*	*Names of firkas comprised in the taluk.*
1. Cannanore	1. Kasaragod	1. Kasaragod	1. Manjeshwar 2. Kumbla 3. Kasaragod
		2. Hosdurg	1. Hosdurg 2. Nileshwar
		3. Taliparamba	1. Payyannur 2. Taliparamba 3. Irikkur

Name of District.	*Names of divisions comprised in the district.*	*Names of Taluks comprised in the division.*	*Names of Firkas comprised in the taluk.*
	2. Tellicherry	1. Cannanore	Cannanore
			Madai
		2. Kottayam	1. Tellicherry
			2. Kuthuparamba
			3. Mattanur
		3. North Wynad	1. Manantoddy
			2. Peria
		4. South Wynad	1. Kalpetta
			2. Sultans Battery
			3. Kaniyambatta
2. Kozhikode	1. Kozhikode	1. Badagara	1. Badagara
			2. Nadapuram
		2. Quilandy	1. Perambra
			2. Quilandy
			3. Balussery
		3. Kozhikode	1. Kozhikode Town
			2. Chevayur
			3. Kunnamangalam
			4. Koduvalli
	2. Malappuram	1. Ernad	1. Manjeri
			2. Wandur
			3. Malappuram
			4. Kondotty
		2. Tirur	1. Tirurangady
			2. Tirur
			3. Vengara
			4. Tanur
			5. Kuttipuram
3. Palghat	1. Ottappalam	1. Perintalmanna	1. Perintalmanna
			2. Mankada
			3. Mannarghat
		2. Ottappalam	1. Sreekrishnapuram
			2. Ottappalam
			3. Pattambi
		3. Ponnani	1. Ponnani
			2. Trithala
			3. Andathode— (comprising the existing Andathode Firka and the five revenue villages of Pookode, Perakam, Iringaprom, Kadaprom and Manathala of the existing Chowghat Firka).
	2. Palghat	1. Palghat	1. Palghat Town
			2. Elappulli
			3. Parli
		2. Chittur	1. Kollengode
			2. Chittur
			3. Nemmara
			4. Kozhinjampara
		3. Alathur	1. Kuzhalmannam
			2. Alathur

SCHEDULA B

Names of Villages	*Firka*
1. O[illegible]anayur	Chowghat
2. [illegible] of Re[illegible]ur	
3. Tha[illegible]ney	
4. Chowghat	
5. Pavaratty	
6. Vemmanad	
7. Bramakulam	
8. Elavalli	
9. Annakkara	
10. Mullasseri	
11. Venkitangu	
12. Irambranellur	
13. Kundazhiyur	
1. Engandiyur	Nattika
2. Vadanappalli	
3. Talikulam	
4. Nattika	
5. Cha-Pallipuram	
6. Edathiruthy	
7. Chandrappini	
8. Kaippamangalam	
9. Peri[illegible]hanam	
10. Kulimuttam	
11. Pappinivattam	
12. Padinjare Vemballur	
13. Panangad	
14. Ala	

By order of the Governor,
N. E. S. RAGHAVACHARI,
Chief Secretary.

GOVERNMENT OF KERALA

STATES REORGANISATION DEPARTMENT

PROCEEDINGS

Dated Trivandrum, 20th December 1956.

Sub: STATES REORGANISATION—Future set up of the Government offices located in Fort Cochin.

Read: Record of Conference held at the Revenue Divisional Office, Fort Cochin on 9-10-1956.

ORDER SRN5-28484|56.

With effect from 1-11-1956, Fort Cochin has become part of Kerala. It will become part of the Trichur District from 1-1-1957 under Notification No. SRN. 3-29174|56 dated 19-12-56. Lying as it does in close proximity to Mattancherry, the question as to the amalgamation of some of the Public Offices in Fort Cochin with similar offices in Mattancherry in the interests of better and uniform administration has been engaging the attention of Government.

2. A conference was held at the Revenue Divisional Office at Fort Cochin on 9-10-56 at which the Collectors of Malabar and Trichur Districts, the Revenue Divisional Officer, Fort Cochin and the Addl. Planning Commissioner & Secretary were present. Pursuant to the discussions held and the recommendations made, Government are pleased to issue the following orders, which will have effect from 1-1-1957.

i. Fort Cochin will form part of the Cochin Taluk and of the Ernakulam Revenue Division.

ii. The Revenue Divisional Office at Ernakulam will be shifted to Fort Cochin which will be the headquarters of the Division. The re-distribution of the taluks in the Trichur District in consequence of change in the boundaries of the District will be dealt with separately.

iii. *Police Station.* The Police Station at Fort Cochin will be retained. The Inspector General of Police is requested to examine whether its jurisdiction can be expanded to take on part of the jurisdiction of the Mattancherry Police Station.

iv. *Taluk Office.* The headquarters of the Cochin taluk will be located at Fort Cochin.

v. *Special Assistant Commercial Tax Officer.* The present Special Assistant Commercial Tax Officer deals with collection of fines awarded in Sales Tax cases by the Sub Divisional Magistrate. He also assists the Special Public Prosecutor in conducting Sales Tax cases in the Sub Divisional Magistrate's Court, Fort Cochin. The assessment work relating to Fort Cochin is being attended to now by the Assistant Commercial Tax Officer, Chowghat, and the Deputy Commercial Tax Officer, Chowghat. Government consider it advantageous during the transition period to declare the

Special Commercial Tax Officer, Fort Cochin as an Assessing Officer also, and they order accordingly. The position will be reviewed by the Board of Revenue after three months.

vi. *Fire Service Unit.* This will contiune with its present jurisdiction.

vii. *Town Surveyor.* He will continue in his present jurisdiction.

viii. *Village Establishment.* This will continue with its present jurisdiction.

ix. *Civil Surgeon.* There is a Civil Surgeon in charge of Fort Cochiu Hospital. This Hospital will be brought under the control of the District Medical Officer, Ernakulam. The Civil Surgeon's post will be couverted iuto a post of II Gr. Civil Surgeon. The Officer who has been allotted against this post will be released for appointment as District Medical Officer in one of the new Districts formed in the Malabar area subject to his suitability for the work.

x. *Junior Electrical Engineer.* The post will be abolished. The Chief Engineer, Electricity is requested to examine what arrangements are required for the maintenance of the existing Sub-Station and to retain essential posts required.

xi. *Treasury.* There is a banking Treasury in Fort Cochin and a Non-banking Treasury at Mattancherry. It may uot be uecessary to retain both. The Board of Revenue is requested to examiue and report in a week how these two Treasuries should be merged and which of the two is to be continued. Till a change is made the treasury at Fort Cochin will coutinue.

xii. *Other Offices.* The following institutions will be abolished.

1. The Sub Registry Office
2. Port Registration Office
3. Office of the Assistaut Inspector of Labour.
4. Office of the Veterinary Asst. Surgeon

The jurisdiction of the nearest correspouding officer of the former Travancore-Cochin area will be extended to Fort Cochin, in respect of these institutious.

xiii. *Surplus staff.* Consequent on the implementation of the above proposals some of the supervisory staff as well as subordinate staff will become surplus. The Board of Reveuue and the concerned Heads of Departments are requested to take immediate steps to provide for them suitably.

xiv. *Courts.* Orders will issue separately.

xv. *Outlying Pattom lands.* Orders will issue separately about the Taluks to which these are to be attached.

3. The Heads of Departments concerned and the concerned administrative departments of the Secretariat are requested to take immediately all the necessary further steps to implement the above orders.

By order of the Governor,

(Sd.)
Assistant Secretary.

To

The Secretary, Board of Revenue
The Collector of Malabar
The Collector of Trichur
The Heads of Departments
The Registrar of High Court (with C. L.)
The Secretaries to Government (including Secretary to the Governor)
The Private Secretary to the Adviser
The Departments of the Secretariat
Copy to the Comptroller (with C. L.)

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(9) The above version may apparently seem to be innocent. But the crucial point is whether there has been a refusal to carry out the orders of his superior or in other words there has been disobedience as would amount to misconduct. Apart from the usual practice, neither the right of the Management to requisition the services of the employees nor the duty of the latter to obey orders in emergent cases or extraordinary situations is disputed. It is in evidence [Ext. XVI (a)] that the syrang of the tug "Chandra" suddenly fell ill and the General Manager EW-4 swears that cashew consignments were urgently required in Cochin for shipment. In the nature of the business, such contingencies arise and to meet unforeseen happenings suitable adjustments would have to be made and a duty is cast at such times on the employee, even at the cost of some personal inconvenience, to offer a helping hand to avert a difficult situation. Besides it is admitted by the syrang as WW-10 that there is no restriction regarding his hours of work or the number of trips and that usually on reaching one terminal he would be asked to take back the vessel the same day. In the light of these facts it can be seen that the position is not so easy as is depicted to be. The contention that the syrang only showed some disinclination and that there was no refusal on his part is against facts and his own admission. The clerk-in-charge asked Sri Anthappan to change the tug and proceed to Cochin and the report of the clerk also is to this effect. " Syrang Anthappan showed some reluctance in changing the tug and said that since it is too late he will proceed only next morning". Thus reluctance or disinclination was only with regard to the changing of the tug and the latter portion of the report clearly indicates his refusal to proceed that evening. On the basis of this report when the worker was called upon to answer the charge of disobedience, he told the General Manager (EW-4) that he refused to go until the following morning for fear of barges stranding. But Sri Raman Pillai questions the genuineness of Ext. XVI proceedings, wherein the question and the above answer were recorded. I am at a loss to accept this argument in view of the clear admission made by the worker himself as WW-10 that even, if the clerk-in-charge insisted, he would have refused to go that evening. This is further substantiated by the worker himself when he says as WW-10 that he wanted to implement the decision taken by the Union that no services should be taken after 4-30 P. M. Evidently this takes the wind off the sails, leaving us with the only alternative that the refusal was purposeful.

(10) Though not strictly relevant for the purpose of deciding the question of disobedience, I shall meet the plea based on the alleged restriction on night-towing and the argument that it makes little difference whether the services are despatched in the morning or in the evening. It is worthy of note that neither when questioned by the General Manager nor in his explanation Ext. P does the workman state that there was restriction on night-towing. For the first time he speaks about it as WW-10 and swears further that twice his licence was cancelled. If as a matter of fact there was such restriction, it is a matter of easy

proof by the production of any notification by the Government or the department concerned to that effect. Even regarding the cancellation of his licence, he subsequently amends his prior statement by saying that his licence was only taken away by the P. W. D. authorities and he got back the same on tendering apology. Hence it is clear that the plea of night restriction is an after-thought. So also the argument that tugs proceeding on the evening and next day morning reach Cochin the same time also falls to the ground on the clear admission of the worker himself. He swears the tug "Chandra" which he took on the morning of the 5th reached Cochin only on the morning of the 7th and he admits that a vessel starting on the evening of the 4th would reach Cochin on the third day. If there was no restriction on night-towing the further plea that the tug may get stranded also could not stand. Thus the two grounds alleged in justification of the refusal to take the tug also fail.

(11) This takes us to the next question whether there was a proper inquiry or in other words whether the workman was given sufficient opportunity to explain his conduct. Sri Raman Pillai contends that no inquiry worth the name was had and that the worker was not even given time to put in his written explanation. The show-cause notice, the interrogation and the dismissal order followed one after the other in quick succession, making the enquiry a farce.

(12) Now Exhibit O, dated 7-7-52, is the notice given to the syrang to show cause why disciplinary action should not be taken for his refusal to obey orders. This was served on him when he arrived in tug "Chandra" at Cochin. Admittedly on receipt of the notice he went straight to the office where he was questioned by the General Manager about the incident. And at the meeting (Ext. XVI proceedings) he categorically admitted that he refused to take "Chandra" until the following morning when asked by the clerk-in-charge. In the face of this answer it is too much to expect the Manager to proceed further with the enquiry. And the question of denial of ample opportunity to set up his defence or to offer explanation or to prove his innocence does not arise. The only question that came up for enquiry wa[s] whether the report of the clerk was true and the clear admissi[on] of the worker concerned naturally sets at rest any doubt on [the] matter and the party in such circumstances could not be he[ard] to say that principles of natural justice have been violated. Th[e] argument placed before me that the enquiry proceedings Ext. XVI were not properly drawn up and it was because they were not correctly recorded that the syrang refused to sign the same cannot also stand in view of his admission in the box that he would have refused to take the tug even if the clerk-in-charge had insisted.

(13) Next it was very strenuously urged before me that the Management was motivated by a spirit of vindictiveness, the immediate cause of the dismissal being the presentation of a detailed memorandum of demands on 26-6-52 by the Union of which syrang Anthappan was an executive member. According t

Sri Raman Pillai the Management thereafter started a programme of victimisation and the first victim was Sri Anthappan. The latter besides being a member of the strike committee, persuaded the workers not to depart from the scheduled timings; the Management could not brook these and hence the dismissal.

Whatever be the relationship that subsisted between the workman, the Union and the Management, by no stretch of argument can it be said that the events that took place on the afternoon of the 4th were preplanned to net or trap Anthappan. The Management could certainly have not anticipated that the syrang of "Chandra" would suddenly get indisposed or that syrang Anthappan would be asked to take charge of that tug. Evidently Sri Anthappan was on the war-path unprovoked and the report and the subsequent enquiry do not even remotely suggest any collusion between the General Manager at Cochin and the clerk in-charge in the Branch office at Quilon. And in the nature of things there is no need to have any personal vendetta against this worker, as the fight, if any, was between the Management and the Union. Thus I may conclude that there was proper enquiry into the alleged misconduct and the evidence and the circumstances do not warrant the inference that the action of the Management is lacking in bona fides or that there has been violation of the principles of natural justice.

(14) The only question that remains for consideration is whether the punishment imposed is to be inferred with and if so to what extent? Ordinarily the Management ought to have the right to decide what the appropriate punishment should be, but its decision is liable to be revised when the punishment is seen to have been unduly harsh or unjust. As was laid down by the Labour Appellate Tribunal in Buckingham and Carnatic Mills, Ltd., "it must not be viewed altogether subjectively from the point of view only of the employer or employee but also objectively in the interests of the Industry for bringing about a harmony in the relationship between the two." Viewed objectively I cannot but remark that the punishment inflicted in this case is disproportionate to the nature of the misconduct and the circumstances under which he happened to misbehave.

(15) I can well appreciate the anxiety of any Management in the matter of maintaining discipline. I do know that without discipline orderly progress in any industry is impossible. But we should not forget another equally salient factor. If in the name of discipline an unduly harsh punishment is imposed, that would necessarily have repurcussions which may defeat the very purpose for which it was made. The Management must always aim at the utmost co-operation from their workmen, for without such co-operation no Industry can flourish. And the punishment that is meted out to one of their brethern should not be such as would cause a feeling of obsession or a feeling of helpless indignation in the workmen which in the long run would spoil harmonious relationship between the two.

(16) Having enunciated this salient principle, to revert back to the facts of this case, we note in addition, certain

extennating circumstances. It is in evidence that Sri Anthappan had left as early as the 1st of July and was back only a few minutes before the order to take back the tug was given on the 4th. He was all the four days at continuous work in seclusion in the back-waters and his refusal all on a sudden to be visited with dismissal appears to my mind to be too much. The Management ought not to have hurried through the enquiry in such haste, thereby giving scope for a feeling that the worker was not dealt with in a fair manner. Managements will do well to bear in mind that it is not enough that they do justice but from their actions it must also appear that justice is being done. Sri Govindan Nair argues that this is not an isolated act of misconduct and that the workman was found guilty of misconduct and has undergone punishment on former occasions. But I am of the view that in the peculiar circumstances of this case the Management should have viewed the misconduct in this instance in isolation without reference to his previous record and given a lesser punishment. I think that suspension for a period of one or two months would have served the purpose.

(17) But since he is found guilty of the charge levelled against him and as he has not realised the folly even at the late stage of his examination in court, I hold that reinstatement is out of the question. It is in evidence (Exts. XVI and XVII) that he has been employed as syrang in A. V. Thomas and Co., Ltd., from the 29th of September 1953, and is drawing in all Rs. 67-3-0 per mensem and it is gratifying to note that his service is of a permanent character. He was without job for a fairly long period, *i.e.*, for a year and two months.

(18) Taking into account all the aspects and circumstances and considering the equities involved, I think the order of dismissal has to be varied to one of the discharge on payment of compensation. I hold that the Management is entitled to dispense with his services on payment of a lump-sum of Rupees Five hundred in full settlement of all his claims in the concern. The Management will pay this amount within fifteen days from the date of publication of this award in the Gazette. In the circumstances of this case, I direct the parties to suffer their respective costs. Awarded accordingly.

Trivandrum, (Sd.)
15-11-1956. *Industrial Tribunal.*

APPENDIX.

Witnesses on behalf of workers:—

WW 1 T. V. Krishnan.
WW 2. Mohammed Kunju.
WW 3 Vasu
WW 4 Joseph.
WW 5 Pappan
WW 6 Narayanan
WW 7 Suleman

WW 8 Kunjan Krishnan
WW 9 Janardhanan Pilla
WW 10 V. T. Anthappan
WW 11 P. N. Vasu
WW 12 Kasim Kunju

Witnesses on behalf of Management :—

EW1 G. J. Pike.
EW2 P. V. Sundaresan.
EW3 N. P. Iyengar.
EW4 J. B. Neal.

Exhibits on behalf of Workers :—

A. Notes of meeting held at Madura Company office on 18-3-1952.
B. Memorandum of Settlement, dated 31st August 1953.
C. List of workers employed in Madura Company as on 31st March 1951.
D. List of workmen employed in the barges and tank boats belonging to Madura Company as on 31st March 1951.
E. List of porters employed by Madura Company in its agency terminals.
F. Memorandum of demands made by the Union on 26-6-1952.
G. Memorandum of Settlement, dated 4th August 1952.
H. Proceedings of Tripartite conference held in the office of the Madura Company, Cochin, on 10-4-1951.
J. Copy of letter, dated 18th October 1954, from the Company to K. P. Gopalan, Syrang, Tank boat 6A.
K. Letter from the Madura Company to the President, Thozhilali Union, Quilon, dated 2nd April 1953.
L. Letter dated, 6th August 1953, from the Company to Syrang A. O. Mackie, Barge 24.
M. Letter, dated 25th July 1952, from the company to T. T. Xavier, Syrang, Barge No. 22.
N. Letter, dated 7th July 1952, from the company to V. T. Anthappan.
O. Letter, dated 7th July 1952, from the company to V. T. Anthappan.
P. Letter, dated 8-7-1952, from V. T. Anthappan to General Manager, Madura Company.
Q. Letter, dated 5th September 1952, from the Madura Co. to the President, Madura Company Thozhilali Union.
R. Letter, dated 8th October 1952, from the company to the President, Madura Company Thozhilali Union.
S. Invoice, dated 25-11-1952, from the company to Dhanalekshmi Vilasam Cashew Company, Quilon.

Exhibits on behalf of Management :—

I. Copy of letter, dated 25-8-1953, from C. P. Fereiro, Barge Supervisor, to the Manager, Out-agency department.
II. Copy of letter, dated 25-8-1953, from P. M. Francis, Tug Syrang, to the Manager, Madura Co.

III. Letter, dated 27th August 1953, from Madura Company to Syrang M. K. Pappan.

IV. A true translation given to questions put by Asst. Manager Mr. Pake to Sri M. K. Pappan.

V. Letter, dated 29th August 1953, from company to M. K. Pappan.

VI. Copy of statement given by Fereiro, Bargo Supervisor.

VI(a). Statement given by Francis, Tug Syrang.

VI(b). Statement given by Cleaner, Elopyos.

VII. Copy of statement, dated 1-9-1953, from Labour Officer, Madura Company.

VIII. Copy of findings recorded by Assistant Manager, Madura Company, dated 2-9-1953.

IX. Time sheet of M. T. Suriya, dated 8-12-1952.

X. Statement, dated 23-11-1955, of the wages given by contractor Sri P. E. Antony.

XI. Copy of conformation letter from Chief Commercia Superintendent, Southern Railway, to Punchirl Boat Service.

XII. Company's profit and loss account for the Out-agency department for the years ending 31st March 1949, 31st March 1950 and 31st March 1951.

XIII. Copy of letter, dated 22nd August 1956, from Madura Company to the General Manager, Southern Railway.

XIV. Award of the Central Government to Industrial Tribunal, Madras, dated 4th February 1954.

XV. The shedule applicable for calculating dearness allowance to the subordinating staff of the Madura Co.

XVI. Minutes of meeting held in Madura Company office on the evening of 7-7-1952.

XVI(a). Letter, dated 7th July 1952, from the Company to Anthappan.

XVII. Letter, dated 15th November 1955, from A. T. Thomas and Company to Madura Company.

XVIII. Letter, dated 28th November 1955, from A. V. Thomas and Company to Madura Company.

(Sd.)

15-11-1956. *Industrial Tribunal.*